

**The State of New Jersey
Department of Environmental Protection**

**Revision to the State Implementation Plan (SIP) for the
Attainment and Maintenance of the
Ozone National Ambient Air Quality Standards**

**Addendum to the
Proposed Revision to the New Jersey 15 Percent
Rate of Progress Plan**

December 7, 1998

Addendum to the Proposed Revision to the New Jersey 15 Percent Rate of Progress Plan

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Please note the revised text is indicated in italic type face.

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Preface

This document revises New Jersey's State Implementation Plan (SIP) for the Attainment and Maintenance of the Ozone National Ambient Air Quality Standards (NAAQS). Specifically, the purpose of this SIP revision is to: 1) replace the State's 15 percent Rate of Progress (ROP) plans that was disapproved by the United States Environmental Protection Agency (USEPA) on December 12, 1997; and 2) provide for a 1999 Transportation Conformity Budget. The State's 15 percent ROP plans were disapproved by the USEPA based on the Federal Agency's finding that, due to delays in starting the enhanced inspection and maintenance (I/M) program, New Jersey cannot timely achieve the required 15 percent emission reductions.

Subsequently, an addendum to this document was prepared. It contains a minor technical correction and language clarification regarding the 24 percent Rate of Progress Plan. A revised 24 percent Rate of Progress Plan will be the subject of a future proposed SIP revision and a subsequent public hearing.

Acknowledgments

The New Jersey Department of Environmental Protection (NJDEP) acknowledges the efforts and assistance of the many agencies and individuals whose contributions were instrumental in the preparation of this SIP revision. In particular, the NJDEP wishes to acknowledge the many individuals within the New Jersey Department of Transportation (NJDOT), the North Jersey Transportation Planning Authority (NJTPA), the South Jersey Transportation Planning Organization (SJTPO), the Delaware Valley Regional Planning Commission (DVRPC), the United States Environmental Protection Agency (USEPA) -- Region II, the Federal Highway Administration (FHWA) -- New Jersey Division, and the staff within the NJDEP for their assistance and guidance.

Executive Summary

This document contains New Jersey's proposed revisions to its Phase I Ozone State Implementation Plan (SIP), specifically the 15 percent Rate of Progress (ROP) plan. The original plan was submitted on December 31, 1996. The United States Environmental Protection Agency (USEPA) granted conditional interim approval to New Jersey's Phase I Ozone SIP submittal on June 30, 1997.[†] However, on December 12, 1997, the USEPA subsequently converted its approval of the 15 Percent ROP Plans contained in New Jersey's Phase I Ozone SIP to a disapproval.^{††} This action was taken after the USEPA determined that the emission reduction benefits claimed by the State for its enhanced inspection and maintenance (I/M) program would not be realized due to implementation delays.

In the December 12, 1997 action, the USEPA did not take any negative action regarding the New Jersey's 24 percent ROP plan; it remains approved. Estimates indicated that the required 24% ROP Plan emissions can be achieved by significant emission reductions of both VOC and oxides of nitrogen (NO_x).^{†††} Additional VOC and NO_x reductions can be achieved by the implementation of the enhanced I/M program and the NJDEP's proposal to reformulate certain components of motor vehicle fuel.[‡] NO_x reductions were achieved by the NJDEP's Reasonably Available Control Technology (RACT) program in the 1995 timeframe. Additional NO_x reductions will be achieved in the summer of 1999 as required by the NO_x budget program.^{††††}

The purpose of this revision is to amend the State's 15 percent ROP plans. The revised

[†] 62 Fed. Reg. 35100, (June 30, 1997). In a letter dated May 29, 1997, New Jersey committed to perform the remodeling necessary to estimate the emissions reductions that would result from the enhanced I/M program, as implemented, within 12 months from the effective date of the USEPA's approval action (that is, by July 30, 1998).

^{††} Letter dated December 12, 1997 to Commissioner Robert C. Shinn, Jr., NJDEP and Commissioner John J. Haley, Jr., New Jersey Department of Transportation, from Deputy Regional Administrator William J. Muszynski, P.E., USEPA, Region II. A similar, but less detailed letter, was sent on the same day to New Jersey Governor Christine Todd Whitman from Regional Administrator Muszynski.

^{†††} The State of New Jersey Department of Environmental Protection, Phase I Ozone SIP Submittal, Remodeling of the 24 Percent Rate of Progress (ROP) Plans, July 30, 1998.

[‡] NJDEP Proposed Rule: Control and Prohibition of Air Pollution by Vehicular Fuels, New Jersey Register, November 16, 1998.

^{††††} N.J.A.C. 7:27-31.

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plans includes all the measures of the original plan, except for the enhanced I/M program and several new non-highway source measures to meet the emission target. These new measures include credit for: 1) the USEPA spark ignition small engine regulation; 2) the USEPA Architectural Coatings regulation; 3) the USEPA Autobody Refinishing regulation; 4) the National Low Emission Vehicle program; 5) the New Jersey Landfill Control Program; and, 6) the New Jersey Architectural and Industrial Maintenance (AIM) program. The latter two programs were in place in 1996, but the State did not take credit for them in its original 15 percent plans. The USEPA has stated that to stop the sanction and FIP processes New Jersey must submit revised 15 Percent Rate of Progress Plans which include adopted State rules that provide for the necessary VOC emission reductions and which are approved by the USEPA. Therefore, as part of this revision, the State has revised its 15 Percent ROP Plans such that they no longer rely on the State's enhanced I/M program, but instead include both federal and State programs which provide for the necessary emission reduction benefits.

In addition to its revisions of the 15 percent ROP plans, the State has also included, as part of this revision, an updated Transportation Conformity budget for the year 1999 which reflects the shift in the burden of emission reductions away from highway vehicle control programs in the revised plans.

1. Introduction and Background

a. Prior Actions

On December 31, 1996, the New Jersey Department of Environmental Protection (NJDEP) submitted to the United States Environmental Protection Agency (USEPA) a revision to its State Implementation Plan (SIP) for the Attainment and Maintenance of the Ozone National Ambient Air Quality Standards (NAAQS).¹ This submittal, hereafter referred to as the Phase I Ozone SIP, contained the State's 1996 15 percent and 1999 24 percent ROP plans demonstrating continued emission reduction progress as required by the Clean Air Act² and established transportation conformity budgets for New Jersey's three Metropolitan Planning Organizations for 1996 and 1999. The USEPA granted conditional interim approval to New Jersey's Phase I Ozone SIP submittal, including its 15 and 24 percent ROP plans, on June 30, 1997.³

On December 12, 1997, the USEPA took action against New Jersey by converting its approval of New Jersey's 15 percent ROP plans to a full disapproval pursuant to section 110(k) of the Clean Air Act.^{4,5} The USEPA subsequently formalized this disapproval in a notification of final rulemaking.⁶ This disapproval was based on the determination that the benefits New Jersey

¹ The State of New Jersey Department of Environmental Protection, State Implementation Plan (SIP) Revision for the Attainment and Maintenance of the Ozone National Ambient Air Quality Standards, Meeting the Requirements of the Alternative Ozone Attainment Demonstration Policy, Phase I Ozone SIP Submittal, December 31, 1996. This SIP revision was transmitted under a December 31, 1996 cover letter from Robert C. Shinn, Jr., Commissioner, NJDEP to Jeanne M. Fox, Regional Administrator, USEPA--Region II.

² 42 U.S.C. §7511a(b)(1)(A) and §7511a(c)(2)(B).

³ 62 Fed. Reg. 35100, (June 30, 1997). In a letter dated May 29, 1997, New Jersey committed to perform the remodeling necessary to estimate the emissions reductions that would result from the enhanced I/M program, as implemented, within 12 months from the effective date of the USEPA's approval action (that is, by July 30, 1998).

⁴ 42 U.S.C. 7410(k).

⁵ Letter dated December 12, 1997 to Commissioner Robert C. Shinn, Jr., NJDEP and Commissioner John J. Haley, Jr., New Jersey Department of Transportation, from Deputy Regional Administrator William J. Muszynski, P.E., USEPA, Region II. A similar, but less detailed letter, was sent on the same day to New Jersey Governor Christine Todd Whitman from Regional Administrator Muszynski.

⁶ 63 Fed. Reg. 45399 (August 26, 1998).

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claimed in these plans for its enhanced inspection and maintenance (I/M) program would

not be realized. Specifically, the USEPA's conditional interim approval of New Jersey's 15 percent ROP plans was based, among other things, on the State commitment to begin enhanced I/M testing in sufficient time (that is, by November 15, 1997) to achieved the 15 percent reduction in volatile organic compound (VOC) emissions that the State relied upon to fulfill its 15 percent requirement. When the State failed to implement its enhanced I/M program by November 15, 1997, the USEPA determined that New Jersey could not timely achieve the required 15 percent emission reductions as specified in its 15 percent ROP plans. On December 12, 1997, the USEPA also found that the State failed to implement its enhanced I/M program on schedule. The USEPA's disapproval action does not affect the conditional interim approval of the State's 24 percent ROP plans, as the State continues to meet its 24 percent ROP requirements.

Estimates indicated that the required 24% ROP Plan emissions can be achieved by significant emission reductions of both VOC and oxides of nitrogen (NO_x).⁷ Additional VOC and NO_x reductions can be achieved by the implementation of the enhanced I/M program and the NJDEP's proposal to reformulate certain components of motor vehicle fuel.[‡] NO_x reductions were achieved by the NJDEP's Reasonably Available Control Technology (RACT) program in the 1995 timeframe. Additional NO_x reductions will be achieved in the summer of 1999 as required by the NO_x budget program.⁸

The conversion of the conditional interim approval of the State's 15 percent ROP plans to a disapproval started a mandatory sanctions clock for New Jersey's 15 percent ROP plans. Unless this clock is stopped, New Jersey will face the imposition of federal sanctions.⁹ The first sanction would occur in eighteen (18) months, or June 12, 1999, requiring new or modified major sources of VOCs and oxides of nitrogen (NO_x) to offset their potential emission at a rate of two tons of reduction for every one ton of emissions, pursuant to section 179(b)(2) of the Clean Air Act.¹⁰ The second sanction would occur in twenty four months or six months later (December 12, 1999), imposing restrictions on New Jersey's receipt of Federal highway approvals and funds, pursuant to section 179(b)(1) of the Clean Air Act.¹¹

⁷ The State of New Jersey Department of Environmental Protection, Phase I Ozone SIP Submittal, Remodeling of the 24 Percent Rate of Progress (ROP) Plans, July 30, 1998.

[‡] NJDEP Proposed Rule: Control and Prohibition of Air Pollution by Vehicular Fuels, New Jersey Register, November 16, 1998.

⁸ N.J.A.C. 7:27-31.

⁹ 42 U.S.C. §7509(a)(2).

¹⁰ 42 U.S.C. §7509(b)(2).

¹¹ 42 U.S.C. §§7509(b)(1).

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In addition, two Federal Implementation Plan (FIP) clocks began as a result of the USEPA's December 12, 1997 disapproval action. First, a statutory 24-month 15 percent ROP plan FIP clock began for the New Jersey portion of the New York-Northern New Jersey-Long Island ozone nonattainment area, pursuant to section 110(c) of the Clean Air Act.¹² Unless this FIP clock is stopped, the USEPA must promulgate a Federal 15 percent ROP plan by December 12, 1999. Second, pursuant to a consent decree entered on March 26, 1997 in American Lung Association of Northern Virginia, et al. v. Carol M. Browner, Civ. No. 1:96CV01388, in the United States District Court for the District of Columbia, an expedited 15 percent ROP plan FIP clock began for the New Jersey portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area. This clock requires the USEPA to propose a 15 percent ROP plan FIP for the New Jersey portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area by January 15, 1999, and promulgate that FIP by August 15, 1999.

¹² 42 U.S.C. §7410(c).

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On page 15, 2nd paragraph under (2) Federal Spark Ignition Small Engine Regulation, "16.19" tpd was revised to "16.16" tpd to be consistent with the correct estimate in Table VI.